

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

OPAL HARGER, *et al.*

Plaintiffs,

v.

U.S. DEPARTMENT OF LABOR,  
and THE NATIONAL INSTITUTE  
OF OCCUPATIONAL SAFETY  
AND HEALTH,

Defendants.

NO. CV-06-5071-RHW

**ORDER GRANTING MOTION  
TO DISMISS, *INTER ALIA***

Before the Court are Defendants' Motion for Scheduling Order (Ct. Rec. 304), Plaintiffs' Motion to Stay (Ct. Rec. 311), Defendants' Motions to Dismiss Plaintiffs Cassel, Jones, and Hooper (Ct. Recs. 316 and 319), Plaintiffs' Motion to Dismiss Plaintiff Cassel (Ct. Rec. 323), Plaintiffs' Notice of Voluntary Dismissal of Plaintiff Rance Jones (Ct. Rec. 326) and Defendants' Motion to Dismiss First Amended Complaint of Allen R. Hooper (Ct. Rec. 327).

Defendants' Motion for Scheduling Order indicates that the claims of Plaintiffs Judith Gibbs and John Iuculano are ready to proceed in this Court, and Plaintiffs do not disagree (Ct. Rec. 308). The parties agree that Plaintiffs Cassel and Jones should be dismissed, and those motions are hereby granted.

It appears that the sole remaining Plaintiffs are Oscar J. Valero, Gary Booker, Allen R. Hooper, Judith Gibbs, and John V. Iuculano. Plaintiffs have not responded to Defendants' Motion to Dismiss Plaintiff Hooper, but have filed an

1 Amended Complaint (Ct. Rec. 322), which Defendants have moved to dismiss.  
2 That motion is set to be heard on February 4, 2011. Plaintiffs originally moved to  
3 stay all proceedings with respect to Plaintiff Valero, but withdrew that motion,  
4 which is therefore denied as moot. Accordingly, the parties are directed to meet  
5 and confer, and file a proposed briefing schedule for the claims of Plaintiffs  
6 Valero, Booker, Gibbs, and Iuculano. After the Court rules on Defendants' Motion  
7 to Dismiss the Complaint of Allen R. Hooper, the Court shall set a briefing  
8 schedule for Plaintiff Hooper if necessary.

9 Accordingly, **IT IS HEREBY ORDERED:**

10 1. Defendants' Motion for Scheduling Order (Ct. Rec. 304) is **GRANTED**.

11 2. Plaintiffs' Motion to Stay (Ct. Rec. 311) is **DENIED as moot**.

12 3. Defendants' Motion to Dismiss Plaintiff Cassel (Ct. Rec. 316) and  
13 Plaintiffs' Motion to Dismiss Plaintiff Cassel (Ct. Rec. 323) are **GRANTED**.  
14 Defendants' Motion to Dismiss Plaintiffs Jones and Hooper (Ct. Rec. 319) is  
15 **GRANTED in part**, with respect to Plaintiff Jones. Plaintiffs' Notice of Voluntary  
16 Dismissal of Plaintiff Rance Jones (Ct. Rec. 326) is **GRANTED**.

17 4. The claims of Plaintiffs Martha E. Cassel and Rance Jones are  
18 **DISMISSED with prejudice**. Plaintiffs Cassel and Jones are now dismissed from  
19 this matter.

20 5. On or before **January 21, 2011**, the parties are directed to meet and  
21 confer, and file a proposed briefing schedule for the claims of Plaintiffs Valero,  
22 Booker, Gibbs, and Iuculano.

23 **IT IS SO ORDERED.** The District Court Executive is directed to enter this  
24 Order and to provide copies to counsel.

25 **DATED** this 21<sup>st</sup> day of December, 2010.

26  
27 s/Robert H. Whaley  
28 ROBERT H. WHALEY  
United States District Judge

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